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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1400.1374890

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on 09-18-2009

Signature

Typed or printed name Ross D. Snyder, Reg. No. 37,730

Application Number

10/027,821

Filed

12-19-2001

First Named Inventor

Denis Proulx et al.

Art Unit

2174

Examiner

Ke, Peng

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒

attorney or agent of record.  
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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

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\*Total of forms are submitted.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Denis Proulx, et al.

Title: METHOD AND SYSTEM FOR IP LINK MANAGEMENT

App. No.: 10/027,821

Filed: 12-19-2001

Examiner: Ke, Peng

Group Art Unit: 2174

Atty. Dkt. No. 1400.1374890

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

Claims 1-18 are pending in the application. The Examiner has rejected claims 1-18. Appellant respectfully requests reconsideration of pending claims 1-18. Appellant files herewith a notice of appeal. Pursuant to the "New Pre-Appeal Brief Conference Pilot Program," 1296 Off. Gaz. Pat. Office 67 (July 12, 2005) and the "Extension of the Pilot Pre-Appeal Brief Conference Program" dated 1/10/2006, Appellant submits a pre-appeal brief request for review. The review is requested for the reasons set forth below:

Appellant submits there exist clear errors in the Examiner's rejections and/or the Examiner's omissions of one or more essential elements needed for a *prima facie* rejection. Appellant submits the Examiner's "Response to Arguments" provides evidence that the Examiner has failed to consider the pending claims as required by the Manual of Patent Examining Procedure (MPEP) and prevailing case law. For anticipation under 35 U.S.C. § 102, a reference must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present [emphasis added]. See MPEP § 706.02 – distinction between 35 U.S.C. § 102 and § 103. Applicant submits MPEP § 2131 provides: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). 'The identical invention must be shown in as complete detail as contained in the...claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim." MPEP § 2141 sets forth the Graham inquiries for a rejection under 35 U.S.C. § 103. MPEP § 2143 describes example of basic requirements of a *prima facie* case of obviousness under 35 U.S.C. § 103. As Applicant describes in detail below, Applicant submits there exist clear errors in the Examiner's rejections and/or the Examiner's omissions of one or more aspects of a *prima facie* rejection.

The Examiner has rejected claims 1-4 and 7-16 under 35 U.S.C. §102(b) as being anticipated by Hansen (United States Patent No. 5,838,907). Regarding claim 1, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 1. As an example, Applicant submits the cited portions of the cited reference fail to disclose "determining local interface and next neighbor information for the network device." The Examiner cites "(figure 7, items 114, 116, 120, 126, 122, 118, and 124)" of the Hansen reference as allegedly disclosing such feature. However, Applicant notes Figure 7 of the Hansen reference merely purports to be an illustration of a configuration manager GUI, but does not appear to disclose any method steps. As another example, Applicant submits the cited portions of the cited reference fail to disclose "determining whether the local interface and next neighbor information is associated with a logical configuration link stored among a plurality of logical configuration links in a logical link database." While the Examiner cites "(column 5, lines 35-64; Subsystem is a logical link database)," Applicant notes the cited portion of the cited reference states, "The data and programming instruction are stored in the memory subsystem 6...", Applicant sees no teaching as to "determining whether the local interface and next neighbor information is associated with a logical configuration link stored among a plurality of logical configuration links in a logical link database." As yet another example, Applicant submits the cited portions of the cited reference fail to disclose "creating a new logical configuration link when the local interface and next neighbor information is not associated with any of the logical configuration links in the logical link database." While the Examiner cites "(column 15, lines 30-50; Unconnected PCI slot are unassociated connection), Applicant notes col. 15, lines 33-39, state, "As may now be seen, the various network entities, as well as unconnected connection interfaces, are graphically displayed on the backplane bitmap 220 using information contained in the bitmap section 36 of the configuration script 12-N and the local configuration file 20 for the Compaq router 122." However, col. 5, lines 49-52, as the Examiner cited in alleging "Subsystem is a logical link database," states "If a particular network device does not have a configuration script, a configuration file cannot be constructed by the network device configuration tool 10." Accordingly, Applicant submits the Examiner's apparent interpretation of the teachings of the prior art would appear to render them inoperable. As yet another example, while the Examiner cites "(column 13, lines 10-30)," Applicant submits col. 13, lines 22-26, state, "If either the origination or destination device or entity do not have an available slot which is connectable to the other device or entity, a determination is made at step 156 that the devices/entities cannot be connected." Applicant submits the cited portion of the cited reference fails to disclose "storing the new logical configuration link in the logical link database." As a further example, while the Examiner cites "(column 14, lines 41-60)," Applicant notes col. 14, lines 48-50, states "...before saving the constructed local configuration file 20 to the memory subsystem and associating it with the device." Applicant submits the cited portion of the cited reference does not appear to disclose "sending the new logical configuration link to the network device."

Regarding claim 2, Applicant submits the cited portions of the cited reference fail to disclose "selecting a link type." While the Examiner cites "(column 13, lines 1-10; x.25, frame relay, PPP and HDLC are link

types," Applicant submits the Examiner has alleged, with respect to claim 1, from which claim 2 depends, that "Subsystem is a logical link database." Applicant submits the Examiner doesn't provide any evidence that "Subsystem" includes any information pertaining to "frame relay, PPP and HDLC." Thus, Applicant submits the Examiner's apparent interpretation of the teachings of the prior art would appear to render them inoperable. As another example, while the Examiner alleges "(column 11, lines 13-30; PCI slots are numbered configuration links)," Applicant submits such allegation does not disclose a step of "selecting a link numbering type...." As a further example, Applicant submits the cited portions of the cited reference fail to disclose "selecting a link application for the new logical configuration link." While the Examiner alleges "(column 14, lines 5-25; The script commands are applications; column 13, lines 65-column 14, lines 5)," Applicant notes the Examiner alleged with respect to "creating a new logical configuration link..." of claim 1, from which claim 2 depends, "Unconnected PCI slot are unassociated connection." While the Examiner alleges "The script commands are applications," Applicant sees no allegation by the Examiner that "the script commands" are disclose link applications for "unconnected PCI slot," which the Examiner appears to allege disclose "the new logical configuration link." Thus, Applicant submits the Examiner's allegations appear to be inconsistent and would render the purported teachings of the cited reference inoperable. As yet another example, while the Examiner cites "(column 14, lines 15-25; Connection identifiers are configuration links)," Applicant notes the Examiner alleged, with respect to "creating a new logical configuration link" of claim 1, from which claim 2 depends, "Unconnected PCI slot are unassociated connection." Thus, Applicant submits "connection identifiers are configuration links" is inconsistent with the purported teachings alleged by the Examiner with respect to claim 1, thereby apparently rendering such teachings inoperable. Moreover, Applicant submits "connection identifiers are configuration links" fails to disclose "selecting a sub layer interface type...." As yet another example, while the Examiner cites "(column 13, lines 10-30)," Applicant submits col. 13, lines 22-26, state, "If either the origination or destination device or entity do not have an available slot which is connectable to the other device or entity, a determination is made at step 156 that the devices/entities cannot be connected." Applicant submits the cited portion of the cited reference fails to disclose "creating a first endpoint for the new logical configuration link" and "creating a second endpoint for the new logical configuration link."

Regarding claim 7, while the Examiner cites "(column 11, lines 41-53; Editing is modifying)," Applicant notes the Examiner alleged "Unconnected PCI are unassociated connection" as purportedly teaching "creating a new logical configuration link..." in claim 1, from which claim 7 depends. Applicant sees no reference to such "unconnected PCI" in "(column 11, lines 41-53; Editing is modifying)," as alleged by the Examiner.

Regarding claim 8, while the Examiner cites "(column 10, lines 1-20)," Applicant notes the Examiner alleged "Unconnected PCI are unassociated connection" as purportedly teaching "creating a new logical configuration link..." in claim 1, from which claim 8 depends. Applicant sees no reference to such

"unconnected PCI" in "(column 10, lines 1-20)," as alleged by the Examiner. Moreover, Applicant submits teachings in "(column 10, lines 1-20)" appear to be inconsistent with "unconnected PCI." For example, "telnet to this device," "view ip addresses," and "view ipx addresses" appear to be inconsistent with "unconnected PCI," as cited by the Examiner with respect to claim 1, from which claim 8 depends.

Regarding claim 11, while the Examiner cites "(figure 7, items 114, 116, 120, 126, 122, 118, and 124), Applicant submits Figure 7 of the Hansen reference merely purports to be an illustration of a configuration manager GUI, but does not appear to disclose "wherein the processing system determines local interface and next neighbor information for the network device."

Regarding claim 12, while the Examiner cites "(column 15, lines 30-50; Unconnected PCI slot are unassociated connection)," Applicant submits the "Unconnected PCI slot are unassociated connection" alleged by the Examiner fails to disclose, for example, "next neighbor information" and "the logical link database." Thus, Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to the subject matter of claim 12.

Regarding claim 13, while the Examiner cites "(column 13, lines 10-30)," Applicant submits col. 13, lines 22-26, state, "If either the origination or destination device or entity do not have an available slot which is connectable to the other device or entity, a determination is made at step 156 that the devices/entities cannot be connected." Applicant submits the cited portion of the cited reference fails to disclose "wherein the processing system creates a new logical configuration link when the local interface and next neighbor information is not associated with any of the logical configuration links stored in the logical link database."

Regarding claim 14, while the Examiner cites "(column 13, lines 10-30)," Applicant submits col. 13, lines 22-26, state, "If either the origination or destination device or entity do not have an available slot which is connectable to the other device or entity, a determination is made at step 156 that the devices/entities cannot be connected." Applicant submits the cited portion of the cited reference fails to disclose "wherein the processing system causes the new logical configuration link to be stored in the logical link database."

Regarding claim 16, while the Examiner cites "(column 14, lines 41-60)," Applicant notes col. 14, lines 48-50, states "...before saving the constructed local configuration file 20 to the memory subsystem and associating it with the device." Applicant submits the cited portion of the cited reference does not appear to disclose "wherein the processing system causes the new logical configuration link to be sent to the network device."

Regarding claim 18, Applicant notes the Examiner states "As per claim 18, it is rejected under the same rationale as claim 2." Applicant submits the Examiner has not alleged anticipation or cited alleged teaching


with respect to subject matter recited in claim 18, which Applicant notes is different than claim 2. Thus, Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 18.

The Examiner has rejected claim 5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hansen in view of Hansen (United States Patent No. 5,838,907), and further in view of Hardwick (United States Patent No. 5,550,816). Applicant notes the Examiner alleges, with respect to claim 2, from which claim 5 depends, "The script commands are applications." However, the Examiner now alleges "Hardwick teaches the step of selecting a link application from a group consisting of: Internet Protocol Forwarding, Multi-Protocol Label Switching and Internet Protocol Forwarding, and Multi-Protocol Label Switching (column 43, lines 60-column 44, lines 5)." Applicant submits the Examiner's allegations as to purported teachings of the cited references with respect to the subject matter of claims 2 and 5 are inconsistent and contradictory, thereby rendering the supposed combination of the purported teachings inoperable. Moreover, Applicant submits the Examiner's alleged motivation to combine the references does not appear to pertain to the supposed combination of the purported teachings. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to the subject matter of claim 5.

The Examiner has rejected claim 6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hansen in view of Hansen (United States Patent No. 5,838,907) in view of Chui (United States Patent No. 2002/0165978). Applicant notes the Examiner alleges, with respect to claim 2, from which claim 6 depends, "Connection identifiers are configuration links." However, the Examiner now alleges "Chui teaches selecting a sub layer interface type comprises the step of: Selecting the sub-layer interface type from a group consisting of: Packet over Sonet, Asynchronous Transfer Mode, and GigEthernet." Applicant submits the Examiner's allegations as to purported teachings of the cited references with respect to the subject matter of claims 2 and 6 are inconsistent and contradictory, thereby rendering the supposed combination of the purported teachings inoperable. Moreover, Applicant submits the Examiner's alleged motivation to combine the references does not appear to pertain to the supposed combination of the purported teachings. Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to the subject matter of claim 6.

Respectfully submitted,

09/18/2009  
Date

  
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